

David Lochabay
Asst. Attorney General
OFFICE OF THE ATTORNEY GENERAL
2nd Fl., Juan A. Sablan Admin. Bldg.
Capital Hill
Caller Box 10007 CHRB
Saipan MP, 96950
Tel: 664-2341
Fax: 664-2349
E-mail: lochabay@gmail.com

Attorneys for Jonas Barcinas

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

HOMAYAN KABIR,

Plaintiff,

v.

**CNMI PUBLIC SCHOOL SYSTEM, and
JONAS BARCINAS**

Defendants.

) No. CV 07 0034

)
) **MOTION TO SUBSTITUTE**
) **CNMI AS DEFENDANT AS**
) **TO PLAINTIFF'S FOURTH**
) **CAUSE OF ACTION**

) **Hearing Date:** _____

) **Time:** _____

) **Judge: Munson**

COMES NOW Defendant Jonas Barcinas, who would now move the Court to substitute the Commonwealth of the Northern Mariana Islands as the sole defendant for Plaintiff's Fourth Cause of Action in the above styled and numbered cause.

As grounds for the Motion, Defendant Barcinas would show the Court the following:

I.

Defendant Barcinas is entitled to be dismissed from, and the CNMI substituted as the sole defendant in, Plaintiff's Fourth Cause of Action. Plaintiff's Fourth Cause of Action sets forth a common law tort claim of assault and battery against Defendant Barcinas. CNMI Public Law 15-22 provides that government employees certified by the CNMI Attorney General as acting within the scope of their employment are entitled to dismissal from lawsuits asserting tort claims against CNMI employees personally. The Commonwealth is to be substituted as the defendant.

II.

The CNMI Attorney General has certified that Defendant Barcinas was acting within the scope

1 of his employment when the assault and battery is alleged to have occurred.

2 III.

3 In support of the Motion, Defendant Barcinas submits his Memorandum of Law under separate
4 cover..

5 WHEREFORE, PREMISES CONSIDERED, Defendant Barcinas prays that the CNMI be
6 substituted as the sole defendant as to the Fourth Cause of Action in Plaintiff's Complaint, and for such
7 other and further relief as the Court may deem just and equitable.

8 Respectfully submitted,

9
10 /s/ David Lochabay
11 David Lochabay
12 Asst. Attorney General
13 Office of the Attorney General
14 Attorneys for Defendant Barcinas and CNMI

15 CERTIFICATE OF SERVICE

16 I hereby certify that the above and foregoing has been e-filed this 31st day of January, 2008, with
17 service requested to Joseph E. Horey, O'Connor Berman Dotts & Banes, attorneys for Plaintiff.

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28 /s/ David Lochabay